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Report of the Special Rapporteur on trafficking in persons, especially women and children

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the thematic report of the Special Rapporteur on trafficking in persons, especially women and children, Maria Grazia Giammarinaro, prepared pursuant to Council resolution 26/8. The report is focused on the efforts of multi-stakeholder initiatives and industry coalitions to address, through voluntary standards, trafficking in supply chains. The Special Rapporteur identifies and analyses main challenges in adopting voluntary standards and assurance processes that effectively facilitate the detection of trafficking in persons. On the basis of the dialogue launched with stakeholders identified within voluntary standards initiatives, she presents recommendations to multi-stakeholder initiatives, assurance providers, companies, States and donors. The recommendations are aimed at strengthening voluntary standards on trafficking in persons, the assurance processes used by multi-stakeholder initiatives to improve detection and remediation of cases of trafficking in persons, and domestic legislation on business transparency regarding efforts to combat trafficking in persons in their supply chains.

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Report of the Special Rapporteur on trafficking in persons, especially women and children

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I. Introduction

1. In the present report, submitted pursuant to Human Rights Council resolution 26/8, the Special Rapporteur outlines the activities she undertook during the period under review and presents a thematic section on the efforts of multi-stakeholder initiatives and industry coalitions[1] in addressing, through voluntary standards, human trafficking in supply chains. The Special Rapporteur would like to thank all stakeholders who participated in the consultations and follow-up for the thematic section; their insights and openness in discussing these issues made that section possible. She wishes to thank the stakeholders also for the trust they place in the mandate holder to advance debate.

II. Activities of the mandate holder

2. With regard to the activities carried out from 1 May 2016 to 31 July 2016, the Special Rapporteur refers to the most recent report she submitted to the General Assembly (A/71/303). Her activities from 1 August 2016 to 28 February 2017 are briefly outlined below.

A. Participation in conferences and consultations

3. On 19 September 2016, the Special Rapporteur participated in the high-level plenary meeting of the General Assembly on addressing large movements of refugees and migrants, and intervened during round table 6 on addressing vulnerabilities of refugees and migrants on their journeys from their countries of origin to their countries of arrival.

4. On 21 September, the Special Rapporteur participated as a panellist at a side event, held in the framework of the high-level plenary meeting, on the Migrants in Countries in Crisis Initiative and addressing human trafficking in conflict and post-conflict situations, organized by the International Organization for Migration (IOM) and the Office to Monitor and Combat Trafficking in Persons of the United States of America Department of State.

5. Also on 21 September, the Special Rapporteur participated as a speaker at the launch of Alliance 8.7, organized by the International Labour Organization (ILO). The Alliance is an inclusive global partnership with a diverse membership that aims to facilitate the strategic coordination of the diverse stakeholders interested in achieving target 8.7 of the Sustainable Development Goals. The Special Rapporteur also participated in a Wilton Park event, held from 1 to 3 February 2017, to engage in brainstorming on the governance structure of the Alliance and the next steps in its operationalization.

6. On 28 October, the Special Rapporteur presented her thematic report on trafficking during conflict and in post-conflict situations (A/71/303) to the General Assembly at its seventy-first session.

7. Also in October, the Special Rapporteur convened a meeting with representatives of social auditing organizations at United Nations Headquarters in New York, as part of a project on engaging with business actors to eradicate trafficking in persons from supply chains. More information on the project and the meeting is given below.

8. In November, the Special Rapporteur addressed the Electronic Industry Citizenship Coalition at its 2016 annual conference, as keynote speaker in a session on trends in global supply chain governance, at which participants discussed new regulatory frameworks on transparency in supply chains and the regulatory path to greater accountability of companies for labour abuses committed in their supply chains.

9. Also in November the Special Rapporteur took part in the panel discussion on international refugee protection and European responses held at the Vienna Migration

[1] For a definition of multi-stakeholder initiatives and a description of industrial coalitions, see paras. 32-36.

Conference convened by the International Centre for Migration Policy Development. She also took part in an expert group meeting on key legal concepts within the definition of trafficking in persons, convened by the United Nations Office on Drugs and Crime.

10. The Special Rapporteur, together with the Foreign Trade Association and the Electronic Industry Citizenship Coalition, co-organized a session on labour migration and trafficking in supply chains, held during the 2016 United Nations Forum on Business and Human Rights in November. The session was attended by representatives of the business community, civil society organizations and Governments.

11. On 25 November, the Special Rapporteur participated as a speaker at the high-level event entitled "New ways to tackle human trafficking for forced labour along migration routes", organized by the Geneva Centre for the Democratic Control of Armed Forces, the Organization for Security and Cooperation in Europe, the Federal Department of Foreign Affairs of Switzerland, ILO, IOM, the Office of the United Nations High Commissioner for Human Rights and the Office of the United Nations High Commissioner for Refugees.

B. Country visits

12. The Special Rapporteur visited Kuwait from 4 to 8 September and the United States from 6 to 16 December 2016, at the invitation of the respective Governments. The reports on the visits are contained in addenda to the present report. She thanks the Governments for their cooperation prior to and during the visit. She expects to visit Brazil on a mutually convenient date agreed with the Government. She is thankful to the Government of Cuba for extending an invitation for a country visit, to be conducted from 10 to 14 April 2017.

III. Strengthening voluntary standards for businesses on preventing and combating trafficking in persons and labour exploitation, especially in supply chains

A. International and national normative framework

13. States have an obligation under international human rights law to protect against human rights abuses perpetrated by third parties, including business enterprises, within their territory and/or jurisdiction. States' obligations to prevent and combat trafficking in persons are clearly established in international human rights instruments. For example, the International Covenant on Civil and Political Rights prohibits slavery and forced or compulsory labour (art. 8) and the Convention on the Rights of the Child imposes on States parties an obligation to take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form (art. 35).

14. Regarding the obligation of States to eliminate trafficking in persons under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, States parties are required to adopt such legislative and other measures as may be necessary to establish trafficking in persons as a criminal offence (art. 5). Under the Protocol, States parties also are required to establish comprehensive policies, programmes and other measures to prevent and combat trafficking in persons (art. 9 (1) (a)). Under the Recommended Principles and Guidelines on Human Rights and Human Trafficking, States are requested to effectively investigate, prosecute and adjudicate trafficking, as well as to punish individuals and legal persons found guilty of trafficking by imposing effective and proportionate sanctions (principles 13 and 15).

15. Under the ILO Declaration on Fundamental Principles and Rights at Work, ILO member States have an obligation to respect, promote and realize the principles concerning the fundamental rights which are the subject of the relevant conventions, including the elimination of forced labour, regardless of whether they have ratified those conventions. In this regard, under the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) States

parties are to take effective measures to prohibit the worst forms of child labour, including child trafficking. Under the ILO Forced Labour Convention, 1930 (No. 29) and Abolition of Forced Labour Convention, 1957 (No. 105), States parties have the obligation to take measures to abolish forced or compulsory labour. ILO Convention No. 29 was strengthened with the approval of the Protocol of 2014 to the Forced Labour Convention, 1930. The Protocol outlines measures for preventing forced labour and emphasizes the need for victim protection and access to appropriate and effective remedies, such as compensation. The measures States are required to take under the Protocol include supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour (art. 2 (e)). This obligation is further underscored in the ILO Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), in which States are called on to provide guidance and support to employers and businesses to take effective measures to identify, prevent, mitigate and account for how they address the risks of forced or compulsory labour in their operations or in products, services or operations to which they may be directly linked (sect. 4 (j)).

16. Regarding the obligations of States to protect against and redress the human rights impacts of business, the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework were endorsed by the Human Rights Council in 2011. In the Guiding Principles, States are requested to set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction will respect human rights throughout their operations (principle 2). While the issue of trafficking in supply chains is not specifically addressed in the Guiding Principles, in accordance with principle 17 businesses should carry out due diligence in order to identify, prevent, mitigate and account for how they address their adverse human rights impacts. Pursuant to that same principle, the due diligence should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed, and should cover not only impacts related to an enterprise's own activities, but also those to which it may be linked through its business relationships.

Domestic efforts in enacting non-financial reporting obligations

17. In the past few years, at the State level, the above-mentioned due diligence principle and the need to ensure businesses accountability have been at the core of national legislation developed to respond to consumer demands for more transparency in the activities of businesses and their impact on trafficking in persons and forced labour.

18. Notable examples of this are the California Transparency in Supply Chains Act of 2010 in the United States, which came into effect in January 2012, and the Modern Slavery Act of 2015 in the United Kingdom of Great Britain and Northern Ireland. Under the California Transparency in Supply Chains Act, retail sellers and manufacturers with over $100 million in annual worldwide gross receipts who do business in the state, regardless of whether or not they are headquartered in California, are required to disclose their efforts to eradicate slavery and human trafficking from their direct supply chains for tangible goods offered for sale. In accordance with the Act, companies concerned must report on their efforts in five different areas: verification, auditing, certification, internal accountability and training.

19. Under the Modern Slavery Act, companies with a total turnover of over £36 million conducting business, or part of a business, in any part of the United Kingdom are required to publish an annual slavery and human trafficking statement to disclose the steps the organization has taken during the financial year to ensure that slavery and human trafficking is not taking place in any of its supply chains and in any part of its own business. Companies may also provide a statement that the organization has taken no such steps. The statement may include information on the company's structure and its supply chains, its policies and due diligence processes to combat human trafficking and slavery, specific parts of its business and supply chains that may be exposed to higher risks and steps taken to mitigate such risks, the effectiveness of such efforts, and training made available for its staff. In addition, the statement must be signed by the highest level of management. The

duties imposed under the Modern Slavery Act can be enforced in civil proceedings undertaken by the authorities.

20. Both Acts, while considered legislative breakthroughs in developing business accountability for non-financial obligations, are nonetheless not exempt from criticism. The Modern Slavery Act has been criticized for allowing United Kingdom-based companies to hide their supply chains as long as the goods they produce do not enter the United Kingdom, and the California Transparency in Supply Chains Act is considered insufficient, as it requires companies only to report their efforts with no regard for the quality of the effectiveness of the measures taken to eliminate trafficking in persons from their supply chains. In 2015, the Special Rapporteur on contemporary forms of slavery, including its causes and consequences presented a report to the Human Rights Council (A/HRC/30/35) in which those two domestic efforts were further analysed.

21. Feedback generated from consultations held with multi-stakeholder initiatives and private sector representatives indicated that while this type of legislation represents a good starting point for most companies and facilitates the mainstreaming of transparency efforts in smaller companies, more transparency is needed. In addition, private sector stakeholders consulted agreed on the need for stronger normative frameworks at the State level that would establish, based on international standards, clear expectations for businesses regarding their obligations to respect workers' rights and to protect workers from labour abuses. Stronger normative frameworks would not only help businesses to ensure that their suppliers are bound to the same level of commitment regarding the elimination of trafficking in persons and respect for workers' rights, but would also help to guarantee an even playing field for those who conduct their operations in accordance with those standards.

22. In 2012, an executive order aimed at strengthening protections against trafficking in persons in federal contracts was signed in the United States. The new amendments to the Federal Acquisition Regulation include further due diligence measures in respect of contractors and address key risk indicators, such as the use of unethical recruitment practices, in particular by prohibiting contractors from charging recruitment fees to workers and from denying employees access to their personal documents.

23. In addition to national legislative frameworks on the accountability of businesses and the effective transposition of international standards to national labour codes, the existence of national policy and legislative frameworks in other areas also plays an important role in tackling and reducing trafficking in persons and forced labour. While not directly addressing the issue of trafficking in persons, measures such as those to regulate recruitment are crucial in reducing risk factors. Indeed, in 2014 the Special Rapporteur on the human rights of migrants dedicated part of his report to the Human Rights Council (A/HRC/26/35) to the issue of recruitment in the context of labour exploitation of migrants.

24. Unfortunately, the regulation of labour recruiters and elimination of unethical recruitment practices are far from homogenous at a global scale and the level of ratification of the ILO Private Employment Agencies Convention, 1997 (No. 181) is low. Some national jurisdictions do not regulate the activities of labour recruiters, allowing a flourishing "informalization" of the industry and permitting practices such as the payment of recruitment fees by jobseekers. Furthermore, in some jurisdictions, workers contracted through employment agencies are not offered the same level of social protection as direct employees, creating a second class of workers and exacerbating the potential negative impact of the lack of regularization of this sector.

25. Regarding recruitment regulation, the ILO launched in September 2016 the non-binding ILO general principles and operational guidelines for fair recruitment, in which it is reiterated that recruitment should take place in a way that respects, protects and fulfils internationally recognized human rights, including those expressed in international labour standards, such as prevention and elimination of forced labour. The guidelines enshrine principles related to the prohibition of recruitment fees, transparency in the terms and conditions of employment, the prohibition against confiscating workers' identity documents, and contracts, among others. Another initiative, the International Recruitment Integrity System (IRIS) was launched by IOM in 2014. IRIS is a multi-stakeholder

initiative for labour recruiters that offers a certification system to recognize ethical recruiters on the basis of an evaluation of their compliance with the IHRS Code of Conduct. Based on the ILO labour standards, the Guiding Principles on Business and Human Rights and good practices in the industry, the Code of Conduct also includes principles on the prohibition of charging recruitment fees to jobseekers, respect for freedom of movement, respect for transparency of terms and conditions of employment, respect for confidentiality and data protection and respect for access to remedy.

26. Responding to a lack of State regulation and poor enforcement of international standards, as well as to consumer demand for greater levels of transparency and compliance with those standards, businesses have also tried to address these issues through a commitment to voluntary standards and assurance programmes, by establishing their own programmes or by engaging with a multi-stakeholder initiative. How trafficking in persons is addressed by such initiatives is the focus of the present report.

B. Scope of the report

27. In 2016, together with Verité, an international non-governmental organization, the Special Rapporteur, thanks to earmarked contributions received for this purpose, launched a new project building on the previous work carried out under the mandate on addressing the risks of trafficking in persons in global supply chains. The goal of the project is to reduce the vulnerability that workers face in supply chains and tackle the risks of trafficking in persons by strengthening multi-stakeholder and industry-based strategies, and to promote the catalysing effect of multi-stakeholder initiatives and industry coalitions to enhance efforts made by businesses to improve their policies and measures to address trafficking in persons and other types of labour violations.

28. In 2016, the mandate holder conducted a mapping of multi-stakeholder and industry-based initiatives active in different industries, including fishing, aluminium, electronics, coffee and tea. The mapping was a first step towards engagement with these initiatives through bilateral dialogue and two consultations. The objective was to identify and understand challenges, lessons learned and good practices in detecting and addressing trafficking in persons and labour exploitation.

29. The first of the two consultations targeted participants in multi-stakeholder initiatives and industry coalitions; the second was aimed at representatives from companies that perform social audits and other types of supply chain assessments.

30. Each consultation began with a framing of current trends in supply chains and strategies to tackle risks of human trafficking. This included a focus on the inherent complexity of supply chain production and the challenges related to enhancing visibility and accountability beyond first-tier manufacturers and producers. The subcontracting and outsourcing of diverse stages of production makes it increasingly difficult for companies to monitor and address working conditions and human rights in a systematic and comprehensive way. Industry and multi-stakeholder initiatives face the same challenges, with important consequences for the validity of their sustainability and rights-based claims. Moreover, supply chains are not only increasingly complex along product chains, but also highly stratified in terms of labour supply. Third-party recruitment and employment agencies are a growing feature of supply chain production, which has important consequences for voluntary initiatives.

31. Strategies to promote transparency in supply chains at the legislative level are enhanced by efforts to go beyond auditing in supply chain due diligence, to integrate workers' voices and empowerment through new policy, communications and grievance mechanisms, and to increase company focus on remedy and the strengthening of corrective action. These trends and others formed the basis of the consultations.

C. Voluntary standards and how they address trafficking in supply chains

1. What are multi-stakeholder initiatives and industry coalitions?

32. Multi-stakeholder initiatives are organizations that have established voluntary sustainability standards, often for a specific commodity or industry sector. They offer a common label for companies that commit to align to the principles set by the standard and that agree to be monitored under the relevant assurance programme under which their commitment to and compliance with the standards are verified. The voluntary set of standards developed under the initiative often covers a wide spectrum of sustainability concerns, ranging from environmental risks and corruption to working conditions and labour rights. Examples of the initiatives identified under the project include the Forest Stewardship Council, Fairtrade, the Aquaculture Stewardship Council, UTZ and the Aluminium Stewardship Initiative, which are also part of an umbrella organization, the ISEAL Alliance, created to strengthen these standards systems by improving their impacts, defining and advancing credibility, increasing their adoption and proliferation and improving effectiveness.

33. The governance structure of multi-stakeholder initiatives is usually composed of a wide variety of stakeholders, including businesses, their suppliers and civil society representatives. The multi-stakeholder nature plays an important role, particularly in the standard-setting process, through which stakeholders define the criteria and indicators that the initiative will use to evaluate company compliance with the agreed standard. In this regard, the quality of the criteria and indicators relating to trafficking in persons depends largely on the level of stakeholder awareness of the issue, as well as on the initiative's success in raising awareness about the standard-setting process among relevant stakeholders, in particular among those that can provide significant feedback. Ultimately, the degree to which this feedback can be integrated into the process will be contingent on the capacity to transmit to other stakeholders the importance and impact that risk indicators relating to trafficking in persons would have in their activities and on their overall performance as measured against labour-related standards.

34. In order to evaluate the compliance of companies and grant certification, if applicable, multi-stakeholder initiatives establish an assurance programme. The ISEAL Alliance defines assurance as the demonstrable evidence that specified requirements relating to a product, process, system, person or body are fulfilled. Some voluntary standards organizations use the term certification system instead. Models of assurance vary in their approach and level of rigour, which range from self-assessments to third-party auditing. Models of audit methodology may differ in terms of frequency and intensity, and with regard to the requirements auditors need to meet to perform the audit. Assurance programmes also use different scoring systems to rate applicant companies on their level of compliance with the standard. Today, many multi-stakeholder initiatives have opted for a stepwise or continuous improvement approach, rather than a pass-fail approach, and assign a prominent role to capacity-building activities that help companies to understand and tackle challenges in the implementation of the standard and in fulfilling compliance requirements.

35. Companies have also addressed sustainability concerns through industry-led initiatives. These are industry associations or coalitions that bring together companies around a voluntary code of conduct or standard and a compliance programme on sustainability issues, including human rights and labour standards. While the modus operandi is similar to that of multi-stakeholder initiatives, there may be differences in the organization of the governance structures, with businesses, including suppliers, playing a stronger role.

36. Some examples of industry coalitions are the Electronic Industry Citizenship Coalition and the Business Social Compliance Initiative of the Foreign Trade Association. The Coalition brings together companies such as Apple, HP and Intel and has developed a code of conduct and audit scope that includes extensive references to issues such as unethical recruitment practices. The Business Social Compliance Initiative is a cross-sectoral initiative that has also developed a code of conduct and an implementation plan.

including auditing, a capacity-building programme for businesses, training for suppliers, and alternative stakeholder engagement activities. As mentioned above, standards and an assurance programme alone are not sufficient to embed the standards into a company's business model. Thus, many multi-stakeholder initiatives and industry coalitions develop, in parallel, capacity-building programmes and other awareness-raising activities for their stakeholders to help promote the standards and their implementation.

2. How is trafficking in persons codified in voluntary standards?

17. Corporate codes of conduct and the voluntary standards set by multi-stakeholder initiatives and industry coalitions typically include a reference to trafficking in persons or forced labour. The trafficking in persons, or forced labour, standard is normally based on international human rights instruments and labour standards. However, the reference is often limited to a mere prohibition of the use of forced labour or trafficking in persons and is not further developed into specific indicators to help identify risk practices and define what forced labour or trafficking in persons may look like in practice.

18. As mentioned above, unethical recruitment practices and how they represent a risk of forced labour and trafficking in persons are not widely acknowledged within the private sector or among the stakeholders that participate in the standard-setting process. While some initiatives, such as the Ethical Trading Initiative or Social Accountability International, were created to uphold a strong labour rights component, others, such as the Marine Stewardship Council, were established primarily with an environmental focus. As a result, the level of sophistication in developing indicators that can effectively account for companies' risk practices in this area varies from one initiative to another. The differences among initiatives regarding their original motivation may not only have an impact in the standard-setting and revision process but may also affect a multi-stakeholder initiative's success in establishing an assurance programme that effectively monitors businesses compliance with a trafficking standard.

19. Budget constraints imposed by client companies and limitations in audit protocols with respect to worker interviews, including the practical challenges of interviewing migrant workers from diverse cultural and linguistic backgrounds, are also key concerns. Given the low levels of awareness among clients about trafficking and forced labour risks and a lack of systems for assessing recruitment and migration practices, the level of detection of trafficking in persons and forced labour cases remains low. An underlying problem identified through the dialogue with the auditing industry is the absence of representatives of that industry at standard-setting negotiations within multi-stakeholder initiatives. As a result, such negotiations can produce auditing protocols that are not effective or practical.

20. The evaluation of the competence of the auditors is also a key concern. The level of understanding of the complexities of detecting trafficking in persons, forced labour and other types of labour exploitation varies among those in the industry. The skills required to, among other things, interview workers, and an auditor's comprehensive understanding of the specific vulnerabilities of categories of workers, such as migrant or contract workers, are indispensable to ensuring adequate evaluations of a company's performance on indicators related to trafficking in persons. Unfortunately, one single team of auditors is often charged with the evaluation of the complete set of indicators, including those on other issues, such as deforestation or corruption. It is unlikely that auditors with expertise in environmental concerns would have also the same level of experience in evaluating corporate practices that represent risk indicators of trafficking in persons or forced labour, especially considering the subtle ways in which such practices may be concealed and the fact that workers themselves may be unaware of the wrongfulness of corporate practices that are perceived as common businesses practices, such as compulsory overtime or the payment of recruitment fees.

3. Criticism of voluntary standards and concerns about their effectiveness in detecting and addressing trafficking in persons

21. Voluntary standards and certification schemes are the object of criticism by some in the labour rights movement, particularly trade unions, which have claimed that such

schemes and their use of audits as a verification method have failed to protect the rights of workers.

42. Voices have been raised against the lack of worker and civil society representation in the governance structures of voluntary standards initiatives. The control that businesses may have over the participation of such actors has also been denounced as a strategy to exclude dissenting voices and bring down the level of the standards to that of the lowest common denominator practices among the businesses concerned.

43. During the consultation, private sector stakeholders expressed concern about the difficulty of designing a system that could efficiently support the efforts of companies moving at different speeds in achieving sustainability targets. It is difficult for multi-stakeholder organizations to address the capacity-building needs of those starting to implement measures to achieve baseline targets, while responding to others who are seeking a platform to launch new tools to move beyond baseline targets towards higher levels of corporate due diligence.

44. Auditing, as a way to evaluate the compliance of companies with labour standards, has also been criticized for its lack of capacity to assess the performance of companies in the long term. An audit, even the most comprehensive, i.e., when it includes worker interviews and is supplemented with information from alternative sources, such as local actors, including representatives of civil society and local trade unions, is still a snapshot, offering only a partial view of day-to-day working conditions.

45. At the same time, representatives from the auditing community raised concerns about their limited role in addressing audit findings and the implementation of their recommendations. Moreover, many of the issues that constitute the root causes of common labour abuses identified at the supply chain level, such as those related to unethical recruitment practices and compulsory overtime, are strongly connected to the behaviour and business decisions of client companies. Some representatives of the auditing community also noted the difficulties faced in bringing such concerns to the attention of client companies, given the race-to-the-bottom practice encouraged by some in the audit industry who agree to perform audits under unrealistic conditions.

46. Furthermore, given the impact that the results of an audit evaluation may have on the business relationships with suppliers, the practices of presenting model factories prepared specifically for audits and model workers coached to respond to auditors have proliferated in the past few years. These practices aggravate yet another challenge of current audit-based monitoring systems, which is the concentration of company resources in monitoring the first tier of their supply chains. It is widely acknowledged that most of the human rights violations and the worst labour abuses occur beyond the first tier of suppliers. However, few companies have extended their due diligence efforts throughout the entire value chain or to include their labour supply chains.

47. This lack of accountability at lower levels of the supply chain inhibits the multiplier effect that efforts to implement the standards should have in bringing the larger group within the industry under the same standard. Companies' leverage over their suppliers in today's complex supply chains, in which individual companies may represent a small percentage of a supplier's business share, can prove very limited if it is not accompanied by a collective action from the industry as a whole. While efforts by industry coalitions and multi-stakeholder initiatives are aimed at breaking through such barriers, current individual corporate limits on supply chain transparency hinder the use of powerful tools such as the consumer thirst for greater accountability, as lower levels in the supply chain hidden by a lack of transparency would be immune to such demands for accountability. Also, suppliers whose business relationships are predominantly with companies based in countries where there is a higher level of consumer awareness and where national legislation requires a higher degree of due diligence and transparency will respond differently to their buyers' requirements regarding compliance with human rights and labour standards than will suppliers whose main business relationships are with companies based in countries with less robust national frameworks and lower consumer demand for ethically produced goods.

48. With regard to sector transformation, industry, multi-stakeholder and certification initiatives held internal discussions on how to move beyond the engagement of a single

company or the "role" of a single supply chain towards sector-wide or market transformation to ensure that sustainability standards, including respect for human rights, are the norm in business. However, the role of such initiatives in sector transformation and their impact on national legal frameworks to promote labour and human rights has been challenged.

65. The above issues, along with the absence of good practices related to remedy for exploited workers, were raised throughout the consultation with multi-stakeholder initiatives and industry coalitions as areas for further engagement across supply chain initiatives.

D. Engaging with multi-stakeholder initiatives and auditing companies

66. The Special Rapporteur deemed it essential to engage with multi-stakeholder initiatives, industry coalitions and representatives of the auditing industry in order to discuss how they address challenges and criticisms, and, through constructive dialogue, to identify areas on which further efforts should be focused. In particular, the consultations and subsequent follow-up activities provided opportunities to enhance learning about the risks of human trafficking in supply chains, consider the strengths and weaknesses of strategies to detect and remedy trafficking in persons, identify challenges and share good practices in auditing and assessments, explore current trends in the professionalization of the auditing industry, and explore synergies between participating organizations, the Special Rapporteur, governments and civil society.

67. The two consultations revealed that multi-stakeholder initiatives, industry coalitions and the auditing community were greatly interested in collaborating with the Special Rapporteur, recognizing the instrumental role that the Special Rapporteur can play in creating a space for open and ongoing dialogue and exchanges on lessons learned and good practices. As no other platform having the same level of credibility and independence as that of the Special Rapporteur exists, representatives of multi-stakeholder initiatives and auditing companies welcomed and encouraged the continuation of the initiatives led by the mandate holder with a view to identifying good practices that can be replicated in other contexts and exploring innovative responses to common challenges.

68. Regarding lessons learned and challenges in detecting cases of forced labour and trafficking in persons, representatives of the auditing community were asked to consider the strengths and weaknesses of current audit strategies, including how auditors addressed recruitment and migration practices, how they gathered information from workers, and challenges and constraints related to client expectations.

69. It was noted that, while social audits had contributed positively to establishing a baseline understanding of human rights and labour conditions in the workplace, other forms of engagement, including training and capacity-building for compliance staff and the development and dissemination of targeted guidance on human trafficking, were equally important. Other types of assessments were also highlighted, including self-assessments carried out by suppliers to evaluate their own compliance with standards and assessments of labour supply chains to review conditions of recruitment and migration, where those conditions pose risks of, inter alia, debt bondage and forced labour for migrant workers.

70. The consultations also fostered robust dialogue on strategies and engagement aimed at promoting workers' voices and empowerment within sustainability initiatives, especially within compliance monitoring schemes, including complaints hotlines, the use of worker surveys, good practices in engaging workers during audits, training and capacity-building for workers on their rights and responsibilities in the workplace, and training on worker-management dialogue in the workplace. However, ensuring that potentially vulnerable workers, such as migrants, young people and women, were not inadvertently excluded from these new strategies was identified as a challenge.

71. Other proposed strategies to strengthen audits, improve measures to detect and provide remedy to trafficking cases, and better implement complementary efforts alongside assessments included increasing community and stakeholder engagement, improving

auditor training, strengthening initiatives to share data and information, and using new technologies to enhance information gathering, for example through information technology platforms, hotlines or other such mechanisms.

56. Representatives from the auditing community agreed to propose a red-flag approach, which would enable auditors to investigate beyond the audit scope when predefined key indicators of labour exploitation were identified. Along those lines, a mapping of the supply chain could be instrumental in identifying risk practices beyond first-tier suppliers. Such an exercise would help client companies prioritize audits on the basis of the presence of risk indicators in subcontracting practices or high-risk geographical areas and economic sectors.

57. Participants in the consultations also discussed the professionalization of social auditing, current trends and developments in the industry and industry efforts to enhance auditor capacity and performance. They examined good practices in the area of assessment, partnerships with civil society and lessons learned in complementing audits with other strategies to enhance supply chain accountability. Members of the Association of Professional Social Compliance Auditors, recently established to enhance the professionalism of individual auditors and organizations performing independent social compliance audits, have been discussing the scope of social compliance audits, the competencies required of an auditor and the requirement for an audit firm to ensure their auditors are able to perform audits and act with integrity and independence at all times.

58. The second consultation also highlighted several data-sharing initiatives aimed at helping businesses to prioritize efforts, as well as the need to record data on labour recruiters. Partnerships and the role of advocacy in the social audit industry were also discussed, as was the need for an oversight mechanism, for example an accreditation system, to ensure quality and standards across the industry.

59. Diverse means of raising grievances and having them addressed were also debated, including examples of worker hotlines and innovations in the use of smartphone technology. However, it was noted that such efforts alone, not unlike social audits, cannot solve the complex problem of human trafficking, and must be reinforced through other means of awareness-raising, capacity-building, problem identification and access to remedy. Questions were raised about the role played by local authorities in the referral and follow-up of grievances, and about how best to coordinate with such authorities, when necessary. Good practices related to the rehabilitation of trafficking victims and their reintegration into communities and labour markets was also mentioned as a topic in need of urgent attention from all relevant stakeholders.

60. Speaking to the criticism that voluntary initiatives have received on their lack of impact in terms of transforming current business models, representatives of multi-stakeholder initiatives shared promising examples of efforts carried out by some initiatives in sector transformation that illustrate the positive impact that voluntary standards can have in enhancing higher standards in national-level policies and legislation. As voluntary standards alone are not sufficient to achieve sector transformation into a new sustainable business model, innovative approaches seek to combine the efforts of the public sector and those of voluntary initiatives. Collaboration across stakeholder groups, from businesses to civil society and regulators, was acknowledged as a precondition for such transformation, as were partnerships with governments, international organizations and the broader United Nations system.

61. Participants identified several other actions and interventions, listed below, which have also helped the Special Rapporteur define areas for further engagement and work under the mandate in strengthening the strategies implemented by multi-stakeholder initiatives and industry coalitions to detect and tackle trafficking in persons:

(a) Corporate codes and policies must be strengthened to address risks of trafficking and forced labour in recruitment and labour supply chains, and must set out specific protections for migrant and other vulnerable workers;

(b) Standard-setting, multi-stakeholder and certification initiatives should be encouraged to engage a broad cross section of stakeholders, including auditors, in the design and establishment of new standards systems;

(c) Existing initiatives should be coordinated and collaboration with governments and civil society should be facilitated, especially regarding grievance mechanisms and provisions for remedies;

(d) Efforts to improve the quality of audit assessments and build the capacity of auditors to detect trafficking in persons and forced labour should be supported;

(e) Efforts to share audit information should be encouraged to allow companies to optimize resources and focus on addressing critical issues and performing audits beyond first-tier suppliers;

(f) Companies that use audits to measure supply-chain compliance are encouraged to review assessment protocols to support improvements in audit quality and create conditions to enable auditors to better identify risks of trafficking;

(g) New and better data on the risks of forced labour and trafficking in supply chains, disaggregated by region, sector and industry, is needed. Companies and auditors should be encouraged to share anonymized data from audit results;

(h) Current trends in corporate behaviour should be mapped through the analysis of audit data to gain understanding of the situation and help target stakeholder commitment;

(i) Research on the impact of non-financial reporting legislation should be collected;

(j) Dialogue with governments should be facilitated to incorporate good practices from voluntary standards into national legislation.

62. Given the potential that multi-stakeholder initiatives and industry coalitions may have to cascade corporate policies on eliminating trafficking in persons across sectors, and the role the Special Rapporteur can play in providing a powerful and neutral platform, the mandate holder will continue to explore further engagement with such initiatives, specifically to:

(a) Reinforce voluntary standards on trafficking in persons and identify good practices in that area, by providing feedback and expert advice in standard revision processes and by co-developing capacity-building activities for the initiatives and their stakeholders;

(b) Enhance workers' voices within the standard-setting process, and in monitoring mechanisms, through the identification of good practices in workers' participation in monitoring schemes and the development of capacity-building programmes;

(c) Identify good practices, and draft guidance and recommendations, for the establishment of corporate grievance mechanisms and remediation that address the needs of workers effectively;

(d) Analyse the impact that non-financial disclosure regulations have on company policies on trafficking in persons.

IV. Conclusions and recommendations

63. **The present report offers an overview of the main challenges that multi-stakeholder initiatives and industry coalitions face in helping their member companies and suppliers to eliminate trafficking in persons in their operations and supply chains. Improving awareness of trafficking in persons and risk practices among the stakeholder base is a prerequisite to establishing a standard that can effectively evaluate company performance in preventing and addressing trafficking in persons. The embedding of workers' voices as an alternative source of information on company performance must be guaranteed. Audit methodologies must be reviewed to ensure that third-party audits are performed under optimal circumstances, that the resources necessary to collect the voices of workers are allocated and that auditors have the skills necessary to evaluate trafficking in persons risk practices. Multi-stakeholder initiatives and businesses must identify solutions in order to ensure a**

voluntary standards strategy in which workers, trade unions and civil society play a central role at the standard-setting level and in monitoring schemes and corporate grievance mechanisms.

64. Voluntary standards alone are not sufficient to transform business models. Innovative approaches in sector transformation call for enhanced collaboration with governments. States must guarantee normative frameworks that, on the basis of international standards, protect workers from labour exploitation and set out clear expectations for businesses in this regard.

65. Against this backdrop, the Special Rapporteur wishes to make the recommendations listed below.

A. Recommendations to multi-stakeholder initiatives

1. Recommendations regarding the standard-setting process

66. Criteria and indicators should be strengthened in accordance with the benchmarks and indicators for ensuring trafficking-free supply chains proposed by the Special Rapporteur (A/HRC/23/48/Add.4, appendix I) and should include at a minimum the following indicators:

(a) All workers have the freedom to terminate employment at any time, without penalty, by means of reasonable notice, in accordance with national law or collective agreement;

(b) Workers are not held in debt bondage or forced to work to pay off a debt of any kind, including non-monetary debt;

(c) No fees or costs for recruitment are charged, directly or indirectly, in whole or in part, to the worker, including costs associated with the processing of official documents and work visas;

(d) Employers that engage private employment and/or recruitment agencies use only agencies that are licensed or certified by the competent public authority;

(e) Workers are provided with a written employment contract that is straightforward and understandable by the workers. Contracts for migrant workers are shared with the workers sufficiently in advance of their deployment;

(f) Contract substitution and changes that diminish originally agreed wages, benefits or other conditions of work are prohibited;

(g) Workers are paid in legal tender and provided written, itemized pay slips or receipts in a language they understand, indicating wage rates, hours worked, total pay and any legally authorized deductions made by the employer;

(h) Workers that earn wages calculated on a performance-related basis do not earn less than the legally mandated minimum wage;

(i) Wage payments are made at regular intervals directly to the worker and/or their bank account, and not delayed, deferred or withheld;

(j) Deductions made from workers' wages are lawful;

(k) Wage advances or loans provided to workers, including interest rates and repayment terms, are compliant with the law, explained to workers in their own language and agreed in advance by both parties;

(l) Workers retain full and complete control over their earnings and are free to spend such earnings at their discretion;

(m) Workers are not compelled to make use of stores or services operated in connection with an undertaking. Where access to other stores or services is not possible, employers ensure that goods and services are sold or provided at fair and

reasonable prices, without the aim of indebting or otherwise coercing the workers concerned;

(n) Mandatory residence in employer-operated residences is not a condition of employment;

(o) Withholding or confiscating passports, other identity documents or work permits is prohibited; in cases where such documents are withheld by employers or labour recruiters as per legal requirement, simple procedures are in place to allow the workers direct and immediate access to the documents at any time;

(p) Workers are not physically confined to the workplace and do not face restrictions, including psychological intimidation and/or verbal threats, on their freedom of movement outside working hours and in related premises, such as dormitories or residences;

(q) Workers, irrespective of their nationality and residence status, have the right to join trade unions and bargain collectively.

67. Multi-stakeholder initiatives should map all relevant stakeholders for each specific standard, taking trade unions into special account, and ensure they are actively involved in the determination of criteria and indicators in the standard-setting process and subsequent revisions. They should also ensure that gender considerations are embedded in the standard when specific vulnerabilities based on gender are identified within the industry or workplace affected by the standard. Multi-stakeholder initiatives should consider establishing a capacity-building programme adapted to each audience to equip stakeholders to participate in the standard-setting and standard-revision processes.

68. Multi-stakeholder initiatives should ensure that the criteria and indicators used to determine compliance with each standard are adapted effectively to the specific sector and activity the initiative covers.

69. Multi-stakeholder initiatives should develop and implement capacity-building activities to ensure that all stakeholders, including buyers, suppliers, labour recruiters, workers, civil society organizations and trade unions, especially at the local level, and their relevant partners understand the risks of trafficking in persons and labour exploitation in their activities and in those of their business partners, and should develop measures to be implemented to comply with the standards.

70. Multi-stakeholder initiatives should consider establishing a platform with all relevant stakeholders at the local level to discuss and coordinate measures to implement the standards, challenges in the implementation and solutions.

71. Multi-stakeholder initiatives should coordinate with other standards systems owners to ensure that all standards on trafficking and labour exploitation are consistent with international human rights instruments and labour conventions, and avoid duplication of members' efforts in demonstrating compliance with the standards by sharing and coordinating assessment processes and results.

72. Multi-stakeholder initiatives should cooperate with State authorities by sharing lessons learned and experiences in standards implementation, to analyse gaps in regulations and State policy regarding the elimination of trafficking in persons and promote the adoption of a relevant legal framework and effective law enforcement measures.

2. Recommendations regarding the assessment process

73. In establishing an assurance programme or certification system, multi-stakeholder initiatives should engage with workers and trade unions to ensure that their concerns and feedback are taken into consideration and that they are informed of the procedures through which they can provide input. Engagement should take place not only during the assessments, but also during pre-audit consultation, the assessment of assurance providers, the review of policies and procedures, and dispute resolution.

74. **The assurance programme must not only be based on third-party audit mechanisms but also use monitoring schemes that include workers and trade unions as an alternative source of information to allow an ongoing assessment of compliance with the labour-related standards. If necessary, multi-stakeholder initiatives should develop specific guidance to ensure that potentially vulnerable workers, such as migrants, young people and women, are not excluded from monitoring mechanisms.**

75. **The assurance programme must require that, during auditing exercises or alternative monitoring mechanisms to assess indicators of labour exploitation, sufficient time be allocated for auditors to interview workers, that any necessary interpretation services be provided, that any arrangements necessary to address gender concerns be made, that interviews be held outside the workplace if possible, and that sufficient time be allocated for document review, management interviews, interviews of other relevant stakeholders, such as local trade unions and communities, and report writing.**

76. **Multi-stakeholder initiatives should define indicators to assess the risk level of clients and determine the intensity and frequency of audits. Such indicators should take into account elements such as State ratification and enforcement of relevant international conventions on human rights and labour standards; the existence of regulatory regimes that regulate recruitment activities in accordance with international standards and guidelines; the level of informality within the economic sector in which the client operates; the percentage of vulnerable groups in the client's workforce, including the number of migrant, temporary, seasonal, contractual or home-based workers; the level of complexity of the client's labour supply chains; and client's previous record on these issues.**

77. **Multi-stakeholder initiatives should ensure that an evaluation of labour recruiters, when such recruiters are used by the supplier to recruit workers or as employment agents, is included in the assurance process and that the above-mentioned criteria and indicators that are under the control of those intermediaries, as recruitment or employment agents, are applied. The results of the evaluation of the labour recruiters' compliance should be made an integral part of the evaluation of the company's compliance and have an effect on the determination of certification status.**

78. **Multi-stakeholder initiatives should ensure that assurance providers and auditors have demonstrated knowledge and experience in assessing compliance with labour-related standards and in interviewing workers on an ongoing basis. When risk indicators are identified, the initiatives should consider requiring the collaboration of assurance providers and auditors with civil society organizations that are specialized in victim identification and that provide specialized services for trafficked persons. Multi-stakeholder initiatives should ensure that specialized services address gender concerns and that services are offered to both men and women. They should also consider including forced labour and human trafficking experts in oversight bodies.**

79. **Multi-stakeholder initiatives should provide specific training to auditors and assurance providers on trafficking in persons to improve their skills in risk detection and evaluation of risk indicators; the training should also cover how to interview workers and should raise awareness of worker vulnerabilities, including those related to gender or migration status.**

80. **Multi-stakeholder initiatives should consider engaging with auditors and other monitoring mechanisms when designing and establishing auditing protocols and monitoring modalities to ensure that they are effective for identifying risk indicators in practice.**

81. **Multi-stakeholder initiatives should develop specific deep dive audit protocol modules on trafficking in persons indicators and guidance to be used when predefined red flags of trafficking and forced labour are first detected, allowing auditors to enlarge the audit scope and uncover the full extent and depth of the problem.**

82. **Non-conformity with human trafficking and forced labour standards should entail suspension of certification or any other envisioned sanction of a similar nature**

and level of severity. A stepwise plan should be established together with the companies to ensure that issues of non-conformity are corrected and workers are not negatively affected by the sanction applied.

B. Recommendations to assurance providers and auditors

83. Assurance providers and auditing companies should ensure that auditors performing workplace assessments are trained in identifying and evaluating risk indicators of trafficking in persons, forced labour and labour exploitation, including risks related to unethical recruitment practices.

84. When performing an audit, assurance providers and auditing companies should ensure that sufficient time is allocated to interviews with workers and worker representatives, that gender concerns are appropriately addressed and that sufficient resources are allocated to engaging interpreters to support auditors when necessary.

85. In the event that the audited company uses labour recruiters, a specialized audit protocol should be in place to assess the risks in their recruitment practices.

86. Assurance providers and auditing companies should supplement information obtained through worker interviews and document reviews with alternative sources of information, including from trade unions and civil society stakeholders who are active in the sector and region.

87. Assurance providers and auditing companies should consider sharing aggregated data on audit results with governments and other relevant stakeholders to support government-level strategies in combating trafficking in persons for labour exploitation that are based on empirical evidence.

C. Recommendations to companies

88. Companies should establish and implement a company policy on the elimination of trafficking in persons from the company's supply chains or adhere to a multi-stakeholder initiative or industry coalition that addresses trafficking in persons and forced labour in accordance with the recommendations set out in the present report. The policy must be part of the company's larger human rights policy commitment and the continuous human rights due diligence the company conducts in accordance with the framework established in the Guiding Principles on Business and Human Rights. Adherence to the policy must be recognized by the highest level of management in the company. A company establishing its own policy should seek the collaboration of workers, trade unions and civil society to formulate the policy and implementation measures that effectively address issues related to trafficking in persons.

89. In selecting new suppliers, companies should develop an evaluation mechanism that takes into account a supplier's compliance with the policy the company has adopted or to which it adheres, by establishing risk indicators such as those mentioned in the recommendations set out above for multi-stakeholder initiatives on strengthening criteria and indicators. Companies should widely communicate among potential bidders the conditions for selection.

90. Companies should integrate their policies on trafficking in persons, forced labour and any other form of labour exploitation as a binding part of contracts with suppliers. Communication should be clear regarding the application of sanctions in the event of non-compliance by the supplier itself or issues of non-compliance found further down in the supplier's supply chain, including in their labour supply chain. Sanctions may include the immediate termination of a contract where grave violations of workers' rights are found. A stepwise plan should be established together with the supplier to ensure that issues of non-compliance are corrected and that workers are not negatively affected by the sanction applied. The plan should include specific

timelines and deliverables in order to make it possible to measure improvement in the implementation of the company's policy.

91. Companies should review and modify purchasing practices that could have a negative impact on the workplace conditions of their suppliers, including the setting of delivery deadlines that will expose workers to non-voluntary overtime or force suppliers to hire workers for peak periods under worse working conditions or through employment agencies.

92. Companies should consider publicly disclosing the names of their suppliers, as well as policies and measures implemented to ensure the compliance of suppliers to the company policy, with reference to, inter alia, cases of non-compliance and corrective action taken.

93. Companies should map the labour supply chains of their suppliers to identify risks, especially regarding recruitment practices; request full disclosure of the names of suppliers' contractors; and develop and implement a capacity-building programme for suppliers to improve their awareness of risk indicators and to assist them in implementing measures to demonstrate their compliance with the company's standards and policies on trafficking in persons and forced labour, including measures for monitoring the practices of their labour recruiters.

94. In cooperation with other businesses and suppliers, and after an evaluation of risk indicators and a mapping of suppliers' supply chains, companies should invest in the assessment and monitoring of second-tier suppliers. Also in cooperation with other businesses and suppliers, companies should establish a capacity-building programme to improve the compliance of second-tier suppliers with standards on trafficking and forced labour.

95. Companies should establish or participate in an operational-level grievance mechanism, in accordance with the Guiding Principles on Business and Human Rights, and cooperate with State-based judicial and non-judicial grievance mechanisms. In designing and establishing the mechanisms, companies should engage with workers, with worker representatives and with civil society organizations that have expertise in issues of trafficking in persons and labour exploitation.

96. Companies should establish a remediation plan in cooperation with the supplier and local and national authorities when a case of trafficking in persons is detected, in order to ensure that workers have effective access to remedies, including compensation, and to appropriate assistance. Any measure adopted should have a human rights-centred approach and be based on the rights of the trafficked person, whose participation in the determination of a solution for their case should be ensured throughout the process. Companies should ensure that, with regard to access to the grievance mechanism and the remediation plan, they consider the specific barriers faced by, and the vulnerabilities of, migrant workers, contract workers, young people and women.

D. Recommendations to States

1. Ratification of international instruments

97. States should ratify all relevant international instruments prohibiting trafficking in persons, forced labour, slavery and slavery-like practices, including the Protocol of 2014 to the Forced Labour Convention, 1930, align their domestic legislation with international standards, criminalize all forms of trafficking in persons and impose adequate penalties for violations.

2. Legislation on transparency

98. States should:

(a) Adopt effective legislation requiring transparency in supply chains, human rights due diligence throughout supply chains, public reporting and disclosure

by businesses, as well as measures relating to procurement practices, and guarantee the implementation of such legislation;

(b) Establish sanction mechanisms for companies that fail to fulfil their obligations, and equip law enforcement agencies with the resources necessary to follow up on reports of lack of compliance;

(c) Make publicly available the lists of companies that are subject to legislation on transparency;

(d) Develop and release guidance materials prior to the entry into force of the legislation to support companies in understanding the requirements;

(e) Enhance legislation on transparency, which should require companies to disclose actual measures adopted to tackle trafficking in persons in their operations and supply chains. Such measures should address at the minimum certain areas of concern, such as recruitment practices, methodology used in monitoring compliance with the company policy, use of alternative sources of information to supplement audit information, the quality of the grievance mechanism, and coordination with relevant stakeholders, including trade unions and civil society representatives;

(f) Encourage knowledge-sharing activities with multi-stakeholder initiatives through, inter alia, the establishment of platforms for the exchange of experiences, lessons learned and good practices on voluntary standards that can help in strengthening national and local strategies to enforce and monitor labour standards.

3. Regulation of labour recruiters

99. States should protect workers against human rights abuses perpetrated in the recruitment process by employers, labour recruiters and other enterprises. This requires that States take appropriate steps, through effective policies, legislation, regulations and adjudication, to prevent and investigate such abuses, to punish those responsible and to provide redress, and that they exercise and mandate due diligence to ensure that human rights are respected.

100. States should adopt, review and, where necessary, strengthen national laws and regulations and consider establishing, regularly reviewing and evaluating national fair recruitment commitments and policies, with the participation of employers' and workers' organizations.

101. States should ensure that relevant legislation and regulations cover all aspects and stages of the recruitment process, and that they apply to all workers, especially those in a vulnerable situation, and for all types of jobs.

102. States should ensure compliance across the recruitment industry with the relevant laws and regulations. Such measures should include public registration, licensing or other regulatory systems. The systems should be effective and transparent and should allow workers and other interested parties to verify the legitimacy of recruitment agencies and placement offers.

103. States should ensure that there is an effective and sufficiently resourced labour inspectorate, and that its staff is empowered and trained to investigate and intervene at all stages of the recruitment process and employment for all workers and all enterprises, and to monitor and evaluate the operations of all labour recruiters.

104. States should ensure that legislation covering recruitment activities clearly prohibits the charging of recruitment fees and related costs to workers and jobseekers.

105. States should ensure that employment contracts are clear and transparent and are respected, and should require and ensure that written contracts of employment are provided to workers specifying the job to be performed and the terms and conditions of employment, including those derived from collective agreements. The contract, or an authoritative copy, should be in the language of the worker or in a

language the worker can understand, and the necessary information should be provided in a clear and comprehensive way in order to allow the worker to express his or her free and informed consent. Contracts for migrant workers should be provided sufficiently in advance of their departure from their country of origin. The contracts should not be substituted and should be enforceable in the destination country. While respecting confidentiality and the protection of personal data, Governments may consider the use of information technology to achieve the above-mentioned objectives. In the absence of a written contract, States should ensure that all rights of recruited workers are respected in accordance with existing legislation and regulations.

106. States should ensure workers have access to free, comprehensive and accurate information regarding their rights and the conditions of their recruitment and employment.

4. Access to remedy

107. States should ensure that workers have rapid and affordable access to grievance and other dispute resolution mechanisms that enable them to address alleged abuses and fraudulent practices in recruitment and employment without fear of retaliatory measures, including blacklisting, detention or deportation, irrespective of their presence or legal status in the State, and to appropriate and effective remedies where abuses have occurred. States should also ensure, through judicial, administrative, legislative or other means, that when abuses related to recruitment and employment occur within their territory and/or jurisdiction, those affected have access to effective remedies, which may include, but should not necessarily be limited to, compensation. Pending the investigation or resolution of a grievance or dispute, whistle-blowers or complainants should be protected and migrant workers should have timely and effective access to procedures. States should ensure that these mechanisms can be accessed across borders after a worker has returned to his or her country of origin.

108. States should promote policies aimed at identifying and eliminating barriers to effective access to grievance and other dispute resolution mechanisms, such as complex administrative procedures, unreasonable costs, fear of discrimination or retaliation and dismissal and, in the case of migrant workers, fear of detention or deportation.

5. Legislation on migration

109. States should abolish and replace employer sponsorship systems that bind every worker to an employer as a sponsor and that create a situation of vulnerability that favours abusive and exploitative work relationships leading to trafficking in persons.

110. States should develop and increase the number of alternative options for regular and safe migration and for legal employment of migrant workers.

111. States should ensure full recognition of the rights of all workers, including migrant workers, to join and form trade unions and to bargain collectively.

112. States should ensure that bilateral and multilateral agreements on labour migration include mechanisms for oversight of recruitment of migrant workers, are concluded between countries of origin, transit and destination, as relevant, and are implemented effectively. States should also ensure that such agreements are consistent with internationally recognized human rights, including fundamental principles and rights at work, and other relevant international human rights instruments and labour standards. Agreements should also contain specific mechanisms to ensure international coordination and cooperation, including on consular protection, and to close regulatory and enforcement gaps related to recruitment across common labour migration corridors.

113. States should equip embassies abroad to provide services to migrant workers, especially channels for consultations and complaints.

6. Research

114. **States should invest in research and the collection and analysis of data on the scope and prevalence of trafficking in persons for labour exploitation in supply chains, specific commodities, sectors, the informal economy and domestic production as the foundation for effective policy and strategy formulation by both public and private sector actors.**

E. Recommendation to donors

115. **Donors should contribute to support the mandate of the Special Rapporteur on trafficking in persons, especially women and children, to enable the mandate holder to continue to pursue the work described in the present report, particularly in the areas identified for further engagement with multi-stakeholder initiatives and industry coalitions.**